

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 11-CR-280(16)-(MJD/JSM)

UNITED STATES OF AMERICA,)
)
Plaintiff,) GOVERNMENT'S MOTION TO
) CONFIRM WAIVER OF ATTORNEY-
v.) CLIENT PRIVILEGE
)
ERIKA ROMERO MONTENEGRO,)
)
Defendant.)

COMES NOW the United States of America, by and through its undersigned attorneys, John R. Marti, Acting United States Attorney for the District of Minnesota, and Steven L. Schleicher, Assistant United States Attorney, and moves this Court for an Order confirming that the defendant, Erika Romero Montenegro, has waived the attorney-client privilege with respect to the issues raised in her Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. [Doc. No. 845]

1) The defendant filed her motion on October 4, 2013. The defendant appears to assert that her defense counsel, Peter B. Wold, provided ineffective assistance of counsel because (1) he did not advise her of the consequences of pleading guilty versus pleading not guilty, (2) he did not provide her with a proper interpreter during their conversations, and (3) he refused to appeal the case.

2) In order to properly address the defendant's claims, Mr. Wold will need to provide an affidavit which discloses certain matters regarding his otherwise privileged conversations with his client. By claiming ineffective assistance of counsel, the defendant has waived the attorney-client privilege as to these matters. *See, e.g., Tasby v. United States,*

504 F.2d 332 (8th Cir. 1974); *United States v. Davis*, 583 F.3d 1081 (8th Cir. 2009). In an abundance of caution, however, the government is seeking an Order confirming that the defendant has indeed waived the attorney-client privilege as to the matters raised in her motion.

WHEREFORE, the government respectfully requests the Court to enter an Order confirming that the defendant has waived the attorney-client privilege with respect to the issues raised in her motion and granting Mr. Wold leave to file an affidavit.

Dated: October 23, 2013

Respectfully submitted,

JOHN R. MARTI
Acting United States Attorney

s/ Steven L. Schleicher

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